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CONTEMPT—VALIDITY OF ORDER—ADJOURNMENT OF COURT.—The defendant, who had violated an injunction, was ordered in contempt and fined by the judge after the court had adjourned for the term. *Held*, the order adjudging the defendant to be in contempt is void. *State v. Highsmith* (S. C.), 90 S. E. 154.

It is not denied that the power to punish for contempt is inherent in every judicial tribunal, and no statutory enactment is necessary to confer this power. *Rottman v. Bartling*, 23 Neb. 848, 37 N. W. 668. See *Ex parte Robinson*, 19 Wall. 505. And the power to punish for contempt cannot be taken away by the legislature declaring that a party charged with contempt shall upon demand have a change of judge or venue or a trial by jury. *Smith v. Speed*, 11 Okl. 95, 66 Pac. 511, 55 L. R. A. 402.

Contempts are divided into civil and criminal. A civil contempt is the violation of some order granted primarily to benefit a party litigant. *State v. Shepherd*, 177 Mo. 205, 76 S. W. 79, 99 Am. St. Rep. 624. A court having the power to grant such an order during vacation also has power to punish for its violation, where the nature of the case seems to make it necessary that the remedy for disobedience be as prompt as the order itself. *Klinck v. Black*, 14 S. C. 241; *O'Bear v. Little*, 79 Ga. 384, 4 S. E. 914. See *Smith v. Speed*, *supra*. But a criminal contempt is an act committed against the majesty of the law or against the court as an agency of government and about which the whole people are concerned. *State v. Shepherd*, *supra*. And the imposition of fine for such a contempt is a judgment in a criminal case. See *Fischer v. Hayes*, 6 Fed. 63. Hence, a judgment and sentence in case of criminal contempt rendered out of court is void. *State v. Nathans*, 49 S. C. 199, 27 S. E. 52. Such proceedings are but the personal command of a judge and without jurisdiction. *Ex parte Ellis*, 37 Tex. Crim. R. 539, 40 S. W. 275, 66 Am. St. Rep. 831; *State v. McKinnon*, 8 Ore. 487. Where the proceedings are before the judges but the judges retire to their chamber for convenience, they are still considered to be in court and a judgment rendered therein is valid. See *Lathrop v. Clapp*, 40 N. Y. 328, 100 Am. Dec. 493.

CONTRACTS—BREACH—IMPOSSIBILITY OF PERFORMANCE.—The defendant agreed to furnish plaintiff's cattle with "plenty of good grass, water and salt during the grazing season." On account of an act of God, an unprecedented drought, it became impossible for the defendant to perform his contract, and the plaintiff sued to recover the damage occasioned him thereby. *Held*, the plaintiff can recover. *Berg v. Erickson*, 234 Fed. 817.

The general rule is well settled, that where a person by a positive and absolute agreement undertakes to perform a certain act, he will not be absolved from liability when, by an unforeseen accident, performance has become impossible. *Knappman Whiting Co. v. Middlesex Water Co.*, 64 N. J. L. 240, 45 Atl. 692, 81 Am. St. Rep. 467, 49 L. R. A. 572; *Adams v. Nichols*, 19 Pick. (Mass.), 275, 31 Am. Dec. 137. This rule is based on the ground that where one of two innocent parties